

July 27, 2011

The Honorable Patrick J. Leahy
Chairman
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
U.S. Senate Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

We, the undersigned, write to urge prompt consideration and passage of the Consular Notification Compliance Act, S.1194, legislation that would provide for review in capital cases involving foreign nationals who did not receive consular access while in U.S. law enforcement custody as required by the Vienna Convention on Consular Relations (VCCR). This legislation would ensure the reliable and accurate functioning of our domestic criminal justice system; give assurance and leadership to the international community regarding the commitment of the United States to the rule of law, thus protecting the interests and safety of our own citizens abroad; and bring the United States into compliance with its undisputed legal obligations pursuant to the International Court of Justice's (ICJ) decision in *Avena and Other Mexican Nationals*.

As you are well aware, millions of Americans rely on their right to consular assistance when traveling, serving in the military, working, and studying abroad. When needed, consular access helps guide Americans through foreign and, often times, complicated legal systems, safeguards our fundamental human and civil rights, and ensures overall protection for our citizens. For the U.S. to request compliance with the VCCR agreement from other countries, we must offer the same rights afforded to foreign nationals detained here in the United States.

Both at home and abroad, prompt access to consular assistance safeguards the fundamental human and legal rights of foreigners who are arrested and imprisoned. For that reason alone, it is essential that the United States lead by example and provide meaningful remedies for VCCR violations, especially in the most serious of cases. In addition, any further delay in compliance with *Avena* will leave the international community with the perception that the United States ignores its binding legal commitments. This is dangerous on many levels: it erodes our reputation as a reliable treaty partner; undermines the effectiveness of international mechanisms for the peaceful settlement of disputes; and, as mentioned above, could have a harmful impact on the millions of U.S. citizens who travel, live, or work abroad. As the State Department conceded more than a decade ago in an apology to Paraguay for the U.S.'s failure to comply with the VCCR in a case that resulted in the execution of a Paraguayan national, the United States "must see to it that foreign nationals in the United States receive the same treatment that we expect for our citizens overseas. We cannot have a double standard."

The U.S.'s inaction on implementing the judgment of the ICJ endangers our citizens, harms the U.S.'s standing in the international community and clashes with our fundamental civil rights and values as a nation. We trust that this Congress will take this issue under serious advisement, and

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we urge you to pass S.1194 promptly in order to implement our obligation as soon as possible. The longer we wait to comply with this important agreement, the more danger we pose for our citizens living and traveling abroad and for the integrity of our own justice system. We thank you for your time and attention to this important matter, and we look forward to working with you in the near future.

Sincerely,

American Civil Liberties Union

Leadership Conference on Civil and Human Rights

Amnesty International USA

National Association of Criminal Defense Lawyers

Human Rights Defense Center

Safe Streets Arts Foundation

Human Rights First

The Advocates for Human Rights

Human Rights Watch

The Constitution Project

Justice Now